

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name Knauff Sunny L.
 (Last) (First) (Initial)

Prisoner Number #X08475

Institutional Address PO Box 96

Chowchilla Ca 93610-0096

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

Sunny Lynne Knauff
 (Enter the full name of plaintiff in this action.)

vs.

Tina Hornbeak

(Enter the full name of respondent(s) or jailor in this action)

CV 08

Case No. 1148
 (To be provided by the clerk of court)

**PETITION FOR A WRIT
 OF HABEAS CORPUS**

(PR)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

530 new

FILED

FEB 27 2008

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

1148

JSW

008-1148 JSW

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda

13 County Superior Court, Oakland):

14 superior court of California County of Butte
1 county st. Oroville
ca 95965

15 Court

Location

16 (b) Case number, if known CM021308

17 (c) Date and terms of sentence 11-01-04 21 years 85%

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
19 parole or probation, etc.) Yes ☒ No ☐

20 Where?

21 Name of Institution: Valley State Prison for Women

22 Address: 21633 Ave 24 Po Box 99
Chowchilla Ca 93610-0099

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for

24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
25 challenging more than one sentence, you should file a different petition for each sentence.)

26 PC 192(a), 12022.5 (9) (1)

27 Voluntary Manslaughter with a gun enhancement

3. Did you have any of the following?

Arraignment: Yes ☒ No ☐

Preliminary Hearing: Yes ☐ No ☒

Motion to Suppress: Yes ☐ No ☒

4. How did you plead?

Guilty ☐ Not Guilty ☐ Nolo Contendere ☒

Any other plea (specify) N/A

5. If you went to trial, what kind of trial did you have? N/A

Jury ☐ Judge alone ☐ Judge alone on a transcript ☐

6. Did you testify at your trial? N/A Yes ☐ No ☐

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes ☒ No ☐

(b) Preliminary hearing Yes ☐ No ☒

(c) Time of plea Yes ☒ No ☐

(d) Trial N/A Yes ☐ No ☐

(e) Sentencing Yes ☒ No ☐

(f) Appeal Yes ☒ No ☐

(g) Other post-conviction proceeding N/A Yes ☐ No ☐

8. Did you appeal your conviction? Yes ☒ No ☐

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☒ No ☐

Year: 2005 Result: Denied

Supreme Court of California Yes ☒ No ☐

Year: 2006 Result: Denied on 2/13/08

Any other court Yes ☐ No ☒

Year: Result:

(b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes ☒ No ☐

2 (c) Was there an opinion? Yes ☒ No ☐

3 (d) Did you seek permission to file a late appeal under Rule 31(a)? N/A

4 Yes ☐ No ☐

5 If you did, give the name of the court and the result:

6 _____

7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to

9 this conviction in any court, state or federal? Yes ☐ No ☒

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28

15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: _____

19 Type of Proceeding: _____

20 Grounds raised (Be brief but specific):

21 a. _____

22 b. _____

23 c. _____

24 d. _____

25 Result: _____ Date of Result: _____

26 II. Name of Court: _____

27 Type of Proceeding: _____

28 Grounds raised (Be brief but specific):

1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No ✓

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: ~~5th amendment violation, 14th amendment violation~~
6 ~~6th amendment violation.~~

7 Supporting Facts: ~~The court violated my rights by giving me~~
8 ~~upper term on both the controlling case and the enhancement,~~
9 ~~based on statements made by myself in a presentence interview~~
10 ~~outside of the advise of council. Then used these same~~

11 Claim Two: ~~6th amendment violation and 14th amendment~~
12 ~~violation.~~

13 Supporting Facts: ~~There are cases that have concluded that~~
14 ~~beyond a prior conviction, which does not apply to me (Ex C 1 & 2)~~
15 ~~any fact that increases a penalty for a crime beyond the statu~~
16 ~~tutory maximum, which would be mid term, must be tried and~~
17 ~~proven.~~

18 Claim Three: _____

19 Supporting Facts: _____

20 _____

21 _____

22 _____

23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 _____

26 _____

27 _____

28 _____

1 statements therof to sentence me. (see exhibits A&B PP1-3) The
2 The judge made several statements to the fact that he had
3 considered these reports. Once these factors are no longer
4 relavent there must be a recalculation og aggrivaing and
5 mitigating factors. (see ex D pl) As to the mental condition
6 that should also be factored into the equation of mitigating
7 factors. Also see that the facts that are used to establish
8 aggrivation came from others also culpable in the crime
9 wanting to take the focus of of themselves. (ex C 1&2) Court
10 used these same sources for aggrivating the gunuse enhancement as
11 well.(Ex E)

1 proved beyond a reasonable doubt. A sentencing courts authority
2 to impose an aggravated sentence depends upon addition fact
3 finding by a jury trial and proof beyond a reasonable doubt
4 on those facts. The court committed error in going beyond the
5 facts established not supported by the plea in and of itself.
6 The federal sentedncing guidlines violate the 6th amendment
7 right to a jury trial by providing for an increase to max term
8 of presumptive sentencing ranges based on facts that are found
9 by a sentencing judge rather than heard by or decided by a jury.
10 (ex B p4&5) There was a timely objection to the upper term. (ex F)

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1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases: Appendix New Jersey (200) 120 S.Ct. 2348 pp 2354-2366, Ring v Arizona
4 122 S.Ct 2428, Blakely v. Washington (04) 542 US —, U.S. v Booker (05)
5 543 US —, U.S. v. Landon (2nd Cir 1999) 168 F3d 276, Miranda v Arizona
6 (1966) 384 US 436, U.S. v. Powe (1978) 591 F2d 833, Grohert v

7 Do you have an attorney for this petition?

Yes _____ No ☒

8 If you do, give the name and address of your attorney:

9 _____
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on

2-18-08

14 Date

[Signature]

Signature of Petitioner

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16
17
18
19
20 (Rev. 6/02)

EXHIBIT A

☐ Court grants DA's motion to amend Complaint /Information to add count(s) _____, violation of _____ ☐ felony ☐ misd
☐ On motion of the People, complaint amended on its face by striking "Felony" and adding "Misdemeanor" on count(s) _____
☐ Defendant waives formal arraignment, advisement of rights and reading of the amended Complaint/Information
☐ Defendant advised of the maximum punishment. ☐ Defendant permitted to withdraw previous plea of not guilty.
☐ Defendant pleads ☐ GUILTY ☐ NO CONTEST to count(s) _____ ☐ B.A.C. _____
☐ Defendant pleads GUILTY with deferred entry of judgment to count(s) _____, conditions incorporated herein.
☐ Parties stipulate to deferred entry of judgment. ☐ Counsel enters plea on behalf of defendant.
☐ Defendant admits ☐ priors/enhancements ☐ VOP as to violating allegation(s) _____ ☐ allegation(s) _____ dismissed/stricken
 ☐ Court takes judicial notice of the plea entered in case _____ and finds defendant in violation of probation.
 ☐ Prior(s) found ☐ valid ☐ invalid ☐ Court finds defendant in violation of probation
☐ Case dismissed ☐ Count(s) _____ dismissed on DA's motion ☐ with a Harvey Waiver ☐ pursuant to a negotiated disposition.
 ☐ Enhancements/priors ☐ stricken ☐ _____ ☐ in the interest of justice.
☐ Defendant is advised /understands that a VC23103/23103.5 conviction can be charged as a prior, increasing penalties on a subsequent conviction of VC23152a/b.

☐ Defendant advised of, understands, and knowingly and voluntarily, expressly and explicitly waives the following rights
☐ to counsel ☐ privilege against self-incrimination ☐ to jury trial/court trial ☐ to confront/cross-examine witnesses
☐ to probation/parole hearing.

☐ After questioning the defendant, the Court find the defendant understands the nature of the charge(s), the elements of the offense, the pleas/defenses thereto, the possible range of penalties and other consequences of the plea (including effects of admission to any priors)
☐ No threats and promises ☐ Defendant not under influence of drugs/alcohol ☐ advised of DMV suspension

☐ Court finds a factual basis for the plea ☐ Counsel stipulates to factual basis ☐ Probable cause for arrest

☐ Defendant is advised this conviction ☐ may serve as a basis to revoke probation or parole ☐ may make you ineligible for Diversion in the future ☐ Defendant advised per PC1016.5 ☐ per PC 12021 (c)(1)

☐ Counsel consents to the ☐ plea ☐ admission ☐ Counsel waives rights on behalf of the defendant

☐ Above waivers taken as to admitted prior/enhancements ☐ Defendant advised of enhancement on subsequent convictions

☐ Court accepts ☐ plea ☐ admission ☐ Written Plea of Guilty/No Contest signed, incorporated in and made part of the record

☐ Pre-sentence probation report ordered ☐ Probation report waived ☐ Arbuckle waiver taken ☐ Time waived for sentencing

☒ Deft. waives formal arraignment and states there is no legal cause why sentence and judgment should not now be pronounced..

☒ Court has received, read and considered the ☒ Orig ☐ Suppl Probation Rpt executes same to be filed ☐ the 1203.03 PC Report ☐ Statement in ☐ Aggravation ☐ Mitigation ☐ PC288.1 Report ☐ Other: _____

☒ Court finds defendant guilty of the crime(s) ☒ Court determines there is a factual basis for the ☒ plea/conviction ☐ admission of VOP

☐ Court ☐ does ☐ does not find this to be an unusual case.

☒ The Court finds: ☐ defendant has violated probation ☒ enhancement(s) to be true

☐ Imposition of sentence is suspended and deft is placed on ☐ Summary ☐ Formal probation for a term of _____ months.

☐ Probation is ☐ reinstated ☐ continued on all prior terms and conditions of probation ☐ modified as set forth in the attached terms and conditions.

☐ Defendant accepts conditions of probation ☐ Probation order incorporated herein ☐ Defendant furnished copy of conditions

☒ Defendant's request for probation is denied. ☐ Probation is terminated ☐ Successfully ☐ Unsuccessfully

☐ Defendant to serve _____ ☐ months ☐ days ☐ hours in jail ☐ Plus _____ days for ☐ FTA ☐ VOP ☐ In lieu of fine

☐ _____ months ☐ days _____ ☐ hours ☐ suspended ☐ credit for time served pursuant to PC2900.5 o Terminal Sentence

☐ Sentence to be served ☐ consecutively ☐ concurrently with any other sentence ☐ Work hours ☐ fine converted to jail time.

☐ Defendant to report to jail by _____ at _____ ☐ Weekends authorized. ☐ TB test

☐ Counsel stipulate to alternative programs ☐ Release programs ☐ authorized ☐ denied ☐ I.I.D. ordered

☐ Pay a fine of \$ _____ ☐ Pay Restitution Fund fine of \$ _____ Pay to ☐ Superior Court ☐ County Central Collections

☐ Fine due by _____ ☐ Payable at \$ _____ per month, beginning _____

☐ 1214.1(a) PC and fine accelerated advisement ☐ Sentence suspended ☐ on count(s) _____

☐ Complete _____ hours on Court Work Program ☐ Report to Compliance Specialist on _____ at _____

☐ Pay \$25 dollar fee. ☐ Defendant sworn, testified and declares critical need to drive

☐ License restricted _____ per VC 13202.5 ☐ Attend _____ school

☐ License suspended/revoked _____ ☐ days ☐ months ☐ years ☐ File proof of completion by _____

☐ Pay Criminal Justice Administration Fee – GC29550.1/29550.2 ☐ Attend AA/NA meetings _____ times per week and keep log

☒ Defendant advised of right to appeal ☐ Bail is exonerated.

☐ Court is advised that \$ _____ in expenses have been incurred in attorneys fees.
☐ Matter is referred to Court Compliance for determination of defendant's ability to pay
☐ Court finds defendant does not have the ability to reimburse.

☒ Court finds defendant does not have the ability to reimburse
 Mrs. Daptant request that the probation report be

Robert Hood in payment of debt submitted

1716 - 1717 - 1718 - 1719 - 1720 - 1721 - 1722 - 1723 - 1724 - 1725 - 1726 - 1727 - 1728 - 1729 - 1730 - 1731 - 1732 - 1733 - 1734 - 1735 - 1736 - 1737 - 1738 - 1739 - 1740 - 1741 - 1742 - 1743 - 1744 - 1745 - 1746 - 1747 - 1748 - 1749 - 1750 - 1751 - 1752 - 1753 - 1754 - 1755 - 1756 - 1757 - 1758 - 1759 - 1760 - 1761 - 1762 - 1763 - 1764 - 1765 - 1766 - 1767 - 1768 - 1769 - 1770 - 1771 - 1772 - 1773 - 1774 - 1775 - 1776 - 1777 - 1778 - 1779 - 1780 - 1781 - 1782 - 1783 - 1784 - 1785 - 1786 - 1787 - 1788 - 1789 - 1790 - 1791 - 1792 - 1793 - 1794 - 1795 - 1796 - 1797 - 1798 - 1799 - 1800 - 1801 - 1802 - 1803 - 1804 - 1805 - 1806 - 1807 - 1808 - 1809 - 1810 - 1811 - 1812 - 1813 - 1814 - 1815 - 1816 - 1817 - 1818 - 1819 - 1820 - 1821 - 1822 - 1823 - 1824 - 1825 - 1826 - 1827 - 1828 - 1829 - 1830 - 1831 - 1832 - 1833 - 1834 - 1835 - 1836 - 1837 - 1838 - 1839 - 1840 - 1841 - 1842 - 1843 - 1844 - 1845 - 1846 - 1847 - 1848 - 1849 - 1850 - 1851 - 1852 - 1853 - 1854 - 1855 - 1856 - 1857 - 1858 - 1859 - 1860 - 1861 - 1862 - 1863 - 1864 - 1865 - 1866 - 1867 - 1868 - 1869 - 1870 - 1871 - 1872 - 1873 - 1874 - 1875 - 1876 - 1877 - 1878 - 1879 - 1880 - 1881 - 1882 - 1883 - 1884 - 1885 - 1886 - 1887 - 1888 - 1889 - 1890 - 1891 - 1892 - 1893 - 1894 - 1895 - 1896 - 1897 - 1898 - 1899 - 1900 - 1901 - 1902 - 1903 - 1904 - 1905 - 1906 - 1907 - 1908 - 1909 - 1910 - 1911 - 1912 - 1913 - 1914 - 1915 - 1916 - 1917 - 1918 - 1919 - 1920 - 1921 - 1922 - 1923 - 1924 - 1925 - 1926 - 1927 - 1928 - 1929 - 1930 - 1931 - 1932 - 1933 - 1934 - 1935 - 1936 - 1937 - 1938 - 1939 - 1940 - 1941 - 1942 - 1943 - 1944 - 1945 - 1946 - 1947 - 1948 - 1949 - 1950 - 1951 - 1952 - 1953 - 1954 - 1955 - 1956 - 1957 - 1958 - 1959 - 1960 - 1961 - 1962 - 1963 - 1964 - 1965 - 1966 - 1967 - 1968 - 1969 - 1970 - 1971 - 1972 - 1973 - 1974 - 1975 - 1976 - 1977 - 1978 - 1979 - 1980 - 1981 - 1982 - 1983 - 1984 - 1985 - 1986 - 1987 - 1988 - 1989 - 1990 - 1991 - 1992 - 1993 - 1994 - 1995 - 1996 - 1997 - 1998 - 1999 - 2000 - 2001 - 2002 - 2003 - 2004 - 2005 - 2006 - 2007 - 2008 - 2009 - 2010 - 2011 - 2012 - 2013 - 2014 - 2015 - 2016 - 2017 - 2018 - 2019 - 2020 - 2021 - 2022 - 2023 - 2024 - 2025 - 2026 - 2027 - 2028 - 2029 - 2030 - 2031 - 2032 - 2033 - 2034 - 2035 - 2036 - 2037 - 2038 - 2039 - 2040 - 2041 - 2042 - 2043 - 2044 - 2045 - 2046 - 2047 - 2048 - 2049 - 2050 - 2051 - 2052 - 2053 - 2054 - 2055 - 2056 - 2057 - 2058 - 2059 - 2060 - 2061 - 2062 - 2063 - 2064 - 2065 - 2066 - 2067 - 2068 - 2069 - 2070 - 2071 - 2072 - 2073 - 2074 - 2075 - 2076 - 2077 - 2078 - 2079 - 2080 - 2081 - 2082 - 2083 - 2084 - 2085 - 2086 - 2087 - 2088 - 2089 - 2090 - 2091 - 2092 - 2093 - 2094 - 2095 - 2096 - 2097 - 2098 - 2099 - 2100 - 2101 - 2102 - 2103 - 2104 - 2105 - 2106 - 2107 - 2108 - 2109 - 2110 - 2111 - 2112 - 2113 - 2114 - 2115 - 2116 - 2117 - 2118 - 2119 - 2120 - 2121 - 2122 - 2123 - 2124 - 2125 - 2126 - 2127 - 2128 - 2129 - 2130 - 2131 - 2132 - 2133 - 2134 - 2135 - 2136 - 2137 - 2138 - 2139 - 2140 - 2141 - 2142 - 2143 - 2144 - 2145 - 2146 - 2147 - 2148 - 2149 - 2150 - 2151 - 2152 - 2153 - 2154 - 2155 - 2156 - 2157 - 2158 - 2159 - 2160 - 2161 - 2162 - 2163 - 2164 - 2165 - 2166 - 2167 - 2168 - 2169 - 2170 - 2171 - 2172 - 2173 - 2174 - 2175 - 2176 - 2177 - 2178 - 2179 - 2180 - 2181 - 2182 - 2183 - 2184 - 2185 - 2186 - 2187 - 2188 - 2189 - 2190 - 2191 - 2192 - 2193 - 2194 - 2195 - 2196 - 2197 - 2198 - 2199 - 2200 - 2201 - 2202 - 2203 - 2204 - 2205 - 2206 - 2207 - 2208 - 2209 - 2210 - 2211 - 2212 - 2213 - 2214 - 2215 - 2216 - 2217 - 2218 - 2219 - 2220 - 2221 - 2222 - 2223 - 2224 - 2225 - 2226 - 2227 - 2228 - 2229 - 2230 - 2231 - 2232 - 2233 - 2234 - 2235 - 2236 - 2237 - 2238 - 2239 - 2240 - 2241 - 2242 - 2243 - 2244 - 2245 - 2246 - 2247 - 2248 - 2249 - 2250 - 2251 - 2252 - 2253 - 2254 - 2255 - 2256 - 2257 - 2258 - 2259 - 2260 - 2261 - 2262 - 2263 - 2264 - 2265 - 2266 - 2267 - 2268 - 2269 - 2270 - 2271 - 2272 - 2273 - 2274 - 2275 - 2276 - 2277 - 2278 - 2279 - 2280 - 2281 - 2282 - 2283 - 2284 - 2285 - 2286 - 2287 - 2288 - 2289 - 2290 - 2291 - 2292 - 2293 - 2294 - 2295 - 2296 - 2297 - 2298 - 2299 - 2300 - 2301 - 2302 - 2303 - 2304 - 2305 - 2306 - 2307 - 2308 - 2309 - 2310 - 2311 - 2312 - 2313 - 2314 - 2315 - 2316 - 2317 - 2318 - 2319 - 2320 - 2321 - 2322 - 2323 - 2324 - 2325 - 2326 - 2327 - 2328 - 2329 - 2330 - 2331 - 2332 - 2333 - 2334 - 2335 - 2336 - 2337 - 2338 - 2339 - 2340 - 2341 - 2342 - 2343 - 2344 - 2345 - 2346 - 2347 - 2348 - 2349 - 2350 - 2351 - 2352 - 2353 - 2354 - 2355 - 2356 - 2357 - 2358 - 2359 - 2360 - 2361 - 2362 - 2363 - 2364 - 2365 - 2366 - 2367 - 2368 - 2369 - 2370 - 2371 - 2372 - 2373 - 2374 - 2375 - 2376 - 2377 - 2378 - 2379 - 2380 - 2381 - 2382 - 2383 - 2384 - 2385 - 2386 - 2387 - 2388 - 2389 - 2390 - 2391 - 2392 - 2393 - 2394 - 2395 - 2396 - 2397 - 23

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTE**

PEOPLE -vs- KNAUFF, SUNNY LYNN

** CASE NBR: CM021308 **

COMPLAINT FILED: 5/21/04

1. 187(a) PC

CUSTODY STATUS: (NOBAIL)

1465.8PC

APPEARANCE: B12 9/17/04 8:30 am PRELIMINARY HEARING

*SPECIAL SET

JUDGE **ROBERT CLUGMAN** CLERK **A. VIRAMONTES** CSR **R. WELLS**

APPEARANCES

☒ Deputy DA C. Carlos
☒ Defendant ☒ present ☐ by video ☐ not present
☐ without attorney ☒ in custody
☒ with/by attorney D. HOPTOWIT
☐ Appearing PC977 ☐ Special appearance by _____
☐ PC977 ☐ waiver executed in open court ☐ filed
☐ Probation Officer _____
☐ _____ present/sworn to interpret

WARRANTS

☐ Defendant fails to appear ☐ Bail forfeited
☐ _____ warrant ordered ☐ DA to file Decl for A/W
☐ Bench/Arrest warrant ordered ☐ Bail fixed at \$ _____
☐ Probation revoked ☐ OR revoked ☐ No cite & release/OR
☐ Warrant recalled ☐ Released ☐ Held until _____
☐ Bail forfeiture set aside ☐ Bail ☐ reinstated ☐ exonerated
☐ Motion of bondsman or surety to set aside forfeiture is
☐ granted ☐ denied ☐ costs \$ _____

ARRAIGNMENT

☐ Defendant acknowledges true name as charged ☐ True name is _____
☐ Defendant is provided copy of the ☐ complaint ☐ information ☐ indictment ☐ Defendant is advised of the charges/allegations
☐ Counsel accepts appointment ☐ Court grants _____ motion to substitute in as counsel for defendant.
☐ Defendant/counsel waives arraignment, reading of the ☐ complaint ☐ information ☐ indictment ☐ VOP petition and advisement of rights.
☐ Statement of Rights signed, incorporated in and made part of the minute order ☐ Defendant's financial statement filed
☐ Defendant informed of rights to ☐ counsel ☐ reasonable bail ☐ jury/court trial ☐ confront/cross examine witnesses
☐ against self incrimination ☐ speedy trial ☐ VOP hearing ☐ to a preliminary examination within 10 Court days following arraignment
☐ Defendant advised ☐ maximum penalties ☐ minimum mandatory penalties ☐ of enhancement on subsequent convictions ☐ that if on probation or parole, same may be revoked ☐ per PC 1016.5 ☐ possible assessment of Public Defender fees
☐ Public Defender _____ appointed ☐ Public Defender _____ relieved
☐ Defendant to retain counsel ☐ Private Counsel _____ appointed
☐ Court finds defendant understands right to an attorney and to the appointment of an attorney at State expense if unable to obtain his/her own and knowingly and voluntarily waives the right to counsel. ☐ Defendant advised of risks of self-representation pursuant to Fareta.
☐ Defendant executes extradition waiver. Court executes same.

PLEA OF NOT GUILTY/WAIVERS

☐ Defendant ☐ pleads not guilty cts: _____
☐ denies ☐ enhancements/priors ☐ V.O.P.
☐ Defendant understands and personally waives right to jury trial
☐ waives right to speedy trial ☐ Counsel joins in waiver(s)
☐ Case(s) _____ consolidated for purpose of trial.
☐ Counsel stipulate to submit the preliminary hearing on the police reports ☐ Defendant waives one sitting rule.

CUSTODIAL STATUS

☒ Defendant ☒ remanded to the custody of the Sheriff
☒ without bail ☐ subject to ☐ \$ _____ bail ☐ PC1275
☐ the terms /conditions of probation ☐ parole/probation hold
☐ on other jurisdiction ☐ pending processing for release on
☐ Released on ☐ O.R. ☐ bail ☐ probation ☐ with conditions
☐ Released on Diversion ☐ Request for O.R. ☐ granted ☐ denied
☐ Court orders that an O.R. work up be prepared
☐ To report to Probation by _____ ☐ forthwith
☐ To comply with PC136.2 orders
☐ Comply with civil order _____ commencing _____
☐ and waiver of extradition.
☐ To Serve Time Imposed
☐ Discharged _____

CALENDAR SETTINGS

☒ Deft ordered to appear ☒ BCCH ☐ DO ☐ C ☐ P ☐ G
☒ Continued on ☐ People's Motion ☒ Defense Motion
☐ By Court ☐ By Stipulation ☐ By Probation
☐ Further Arraign./EOP _____ at _____
☐ Pretrial/Dispo set _____ at _____
☐ Preliminary Hearing _____ at _____
☐ Trial Readiness Conf. _____ at _____
☐ Jury trial ☐ confirmed _____ at _____
☐ Court trial _____ at _____
☐ Admit/Deny VOP _____ at _____
☐ VOP/Evidentiary Hearing _____ at _____
☒ Probation/Sentencing B-18/24 B12 at 8:30P
☐ Dispo following VOP _____ at _____
☐ Diversion Hrg/Review _____ at _____
☐ D.V OR Hrg/Review _____ at _____
☐ Continued to: _____ at _____
☐ for _____
☐ Deft. ☐ does ☐ does not waive time ☐ limited time waiver
☐ Time waiver withdrawn ☐ Special set ☐ time est
☐ Vacated
☐ Case(s) trailing pursuant to Standing Order BCSC 2003-9

W/ Mr. Hoptowit advises that the defendant will not participate in any interviews with probation and that any information will be submitted in writing.

1 The matter will be referred to Probation for
2 presentence report.

3 MR. CARLOS: Your Honor, is that the only
4 pending matter against Ms. Knauff?

5 THE COURT: It's the only one we pulled. If
6 there are other matters --

7 MR. CARLOS: She's on misdemeanor probation
8 in CM017188. It's A Penal Code Section 476 case.

9 THE COURT: That's the one I mentioned.

10 MR. CARLOS: Okay. She was also in Prop 36
11 at the time in NCR83318 and the other one was
12 previously dismissed.

13 THE COURT: To the extent she was still in
14 active Prop 36, the Court will find her in violation
15 of that as well and find her in violation.

16 MR. HOPTOWIT: I just wanted to make sure we
17 didn't have any loose ends.

18 THE COURT: I want to pull them all together
19 and refer them all. Is time waived for sentencing?

20 MR. HOPTOWIT: No.

21 THE COURT: Will you waive one day?

22 MR. HOPTOWIT: Yes.

23 THE COURT: All right. We'll set sentencing
24 on October 18th. That will be at 8:30. Yes, 8:30.

25 MR. HOPTOWIT: Your Honor, I would ask that
26 the clerk put on the referral that Ms. Knauff will not

1 participate in any interview with Probation. She's
2 declining to be interviewed by Probation. If we are
3 going to provide a statement we'll provide it in
4 writing directly to Probation, to the Court and to the
5 prosecution and I'm going do write them a letter to
6 that effect.

7 THE COURT: Would Probation have information
8 on Ms. Knauff from prior reports?

9 MR. HOPTOWIT: Yes.

10 MR. CARLOS: Yes.

11 THE CLERK: She's on court probation in
12 CR33818.

13 THE COURT: Probation will be revoked. In
14 that matter probation revoked as well.

15 Ms. Knauff will be held without bail pending
16 sentencing. Thank you, Mr. Hoptowit and Mr. Carlos.

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EXHIBIT B

1 OROVILLE, BUTTE COUNTY, CALIFORNIA, NOVEMBER 1, 2004

2 THE COURT: All right, Ms. Knauff is present in
3 custody with her attorney, Mr. Hoptowit. The People are
4 represented by Mr. Carlos.

5 Are the parties ready to proceed?

6 MR. CARLOS: Yes, Your Honor.

7 MR. HOPTOWIT: Yes.

8 THE COURT: The Court has received, read and
9 considered the probation officer's report and signed it
10 to so indicate.

11 Mr. Hoptowit, does your client waive formal
12 arraignment for judgment and sentence?

13 MR. HOPTOWIT: Yes, Your Honor.

14 THE COURT: Any legal reason or cause why
15 judgment and sentence cannot now be pronounced?

16 MR. HOPTOWIT: No, Your Honor.

17 THE COURT: I will note that the Court did not
18 receive sentencing statements from either party. It's
19 the Court's intent to impose the upper term on the
20 voluntary manslaughter with an upper term enhancement
21 for the gun use.

22 Counsel wish to be heard?

23 MR. HOPTOWIT: I do, Your Honor.

24 First of all, I would ask if the Court records
25 reflect that I had requested that the Court and the
26 court staff communicate with probation advising them

1 that my client did not want to be interviewed by them.
2 I hope some of us recall that.

3 THE COURT: The clerk's minute order of
4 September 17th indicates that. I cannot say whether
5 probation was contacted with that information.

6 MS. WHITLOCK: No, we were not.

7 THE COURT: Does that have any effect on us
8 going forward today?

9 MR. HOPTOWIT: It doesn't.

10 THE COURT: To the extent necessary, the Court
11 apologizes. It was reflected in the notes and Ms. Swint
12 was present when it happened, so.

13 MR. HOPTOWIT: In that regard I have two
14 requests. Number 1, the Court disregard any of her
15 statements in making the sentence choices in this
16 matter, and further, that the Court order that her
17 probation report be sealed in as much it contains
18 statements that were made outside the advice of counsel,
19 and this Court was on notice as was probation, by being
20 present, that she declined to be interviewed by
21 probation.

22 THE COURT: Mr. Carlos, on that issue alone?

23 MR. CARLOS: Your Honor, I'll submit it.

24 THE COURT: The Court will seal the probation
25 report. The Court is not relying on the statements of
26 Ms. Knauff in reaching the sentencing choices it must

1 THE COURT: Let me go through -- before I do the
2 sentencing let you know the factors in aggravation the
3 Court intends to consider.

4 The crime in this matter obviously involved
5 great violence and great bodily injury. The gentlemen
6 died. It appeared from the probation report that he was
7 either sitting passively or was sleeping at the time
8 that he was shot through the head with the rifle that
9 has been associated with the defendant. The matter was
10 originally charged as a first degree murder with special
11 circumstances. And frankly, other than the possible
12 failure of witnesses to convince a jury based upon their
13 status, drug addiction or otherwise, it looks to the
14 Court as if this was indeed a first degree murder case
15 with special circumstances.

16 The Court was not privy to the plea bargain
17 negotiations that occurred between the People and the
18 Defense. That does not change the Court's mind.
19 Voluntary manslaughter must be premised upon a crime
20 that's involved in a heat of passion or imperfect self
21 defense. As much I tried, I cannot wrap these facts
22 around any of these theories of voluntary manslaughter.
23 The Court will find the victim was particularly
24 vulnerable, sitting in a chair in his living room with
25 his back to the shooter, apparently, from the forensics
26 that were revealed in the probation report and may have

1 been asleep.

2 Defendant went to the victim's home with the
3 intent -- with the possession of a firearm with the
4 intent to rob him of drugs and money, and that had been
5 articulated to others through their statements not
6 through her statement. The defendant was on probation
7 at the time of the crime, her ostensibility will go to
8 her statement. Well, others testified that she had told
9 them -- not testified, but told probation that she went
10 there to steal some money so she could get into a drug
11 program to avoid incarceration in the Prop. 36 Court.

12 The Court finds all of those to be factors in
13 aggravation. The Court cannot identify any factors in
14 mitigation other than perhaps the defendant does not
15 have a significant prior record; although, her prior
16 record does involve 3 misdemeanors that she's in
17 violation of probation on as a result of this matter.

18 So I'll hear from Counsel on each of those, if
19 you wish.

20 MR. HOPTOWIT: Your Honor, I think it's
21 inappropriate for the Court to consider that the crime
22 involved great violence and great bodily injury as much
23 that homicide by definition probably involves all of
24 those things. Secondly, I would object to the Court
25 considering any factors in aggravation that are not
26 supported by the plea in and of itself. Inasmuch as the

1 way I read these cases they sort of are self-fulfilling
2 because the constitution requires that a person be
3 advised of the potential maximum penalty and that a plea
4 form also requires that.

5 So that the Court has some basis for making a
6 finding that a defendant makes a knowing and
7 intelligently, freely, voluntary waiver of his rights
8 with a full understanding of the potential consequences.
9 And way I read Wagner in those cases is that if you have
10 a jury verdict then you have facts before you. But
11 beyond that you simply have the plea to the offense, and
12 basically the minimal facts necessary to judicially
13 sustain the conviction I think requires a trial or an
14 admission or facts, unless you're relying of course on a
15 persons' prior record. So to the extent that any of the
16 circumstances that the Court is relying upon that don't
17 meet that criteria I would object so that Ms. Knauff's
18 appellate rights are protected.

19 Finally, Your Honor, I would indicate that there
20 was an early admission of responsibility for the death.
21 The circumstance as to what that death was, whether it
22 was a first degree murder or a manslaughter or whatever,
23 are irrelevant to early admission, responsibility, and
24 to the use of the firearm. So I think a minimally
25 significant prior record and early admission of
26 responsibility, the fact that this young woman has never

EXHIBIT C

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22 was a first degree murder or a manslaughter or whatever,
23 are irrelevant to early admission, responsibility, and
24 to the use of the firearm. So I think a minimally
25 significant prior record and early admission of
26 responsibility, the fact that this young woman has never

1 been on formal probation previously, that her prior
2 record consists of misdemeanors, the Court is denying
3 probation because of the nature of the offense, are all
4 factors in mitigation that could serve to balance any
5 facts that this Court may consider with or without
6 Blakely, and therefore the Court should impose the mid
7 term.

8 To the extent the Court's going to rely on facts
9 in the probation report, I would simply indicated that
10 the two persons for whom those facts are used from are
11 two persons who were at best, accessories, more than
12 likely aiders and abettors, and the facts would equally
13 support given who the owner of the firearm was, who the
14 driver of the vehicle was, that either of them were
15 involved in the actual killing of the deceased here as
16 much as Ms. Knauff, who was sort of last in line to be
17 talked to, and therefore charged, and one can easily
18 envision a scenario where if she was spoken to first and
19 then the other two in order that the third person in
20 that sequence would been charged with the first degree
21 murder.

22 THE COURT: A couple of comments. First of all
23 with regard to the Blakely constitutional issue, that
24 matter is I think well articulated at this point as part
25 of the record and subject to appeal. I will note that
26 the Blakely case differed from the California scheme in

EXHIBIT D

1 avoid returning to jail for a probation violation (testing positive for drug use). She later
2 "bragged" about murdering the victim to enhance her status in the drug subculture. The
3 defendant then involved a third party when she again appeared to use sex as a tool to
4 manipulate her partner in the destruction of the murder weapon. There appears to be no
5 motive for committing the crime. According to autopsy findings, the victim was asleep when
6 shot in the back of the head. It is noted that the defendant has a mental condition (bi-polar
7 disorder) and a severe drug addiction. In view of the brutality of the crime, and the numerous
8 opportunities the defendant has had to address her drug problem, it does not appear she is
9 amenable to treatment. Based on the aforementioned, the defendant's case does not appear to
10 be unusual nor does a grant of probation appear to be in the best interests of justice.

12 Further, based on the seriousness of the crime and the callous nature of the defendant,
13 she does not meet the criteria established for a grant of probation in Rule of Court 4.414.

15 Pursuant to Rules of Court 4.408, 4.421, and 4.423, the upper term appears to be an
16 appropriate sentence in Count I, and the Special Allegation, in that the circumstances in
17 aggravation outweigh the circumstances in mitigation. In mitigation, the instant offense
18 appears to be the defendant's first felony conviction. In aggravation, the defendant was on
19 probation upon commission of the instant offense (CM-017188 and NCR-83318). She
20 performed poorly while on probation. The defendant's drug induced state upon commission of
21 the instant offense is viewed as an aggravating circumstance, not an untreated illness. The
22 victim was particularly vulnerable. He was shot in the back of the head as he slept. The
23 defendant, with the intent to rob the victim, exercised a high degree of vicious callousness
24 when she chose to kill him. She planned to commit the crime, as evidenced by the fact she
25 spoke about it for several days while seeking a loaded gun. The defendant induced two other
26 people to participate in the crime. She threatened to harm one person who could place her at
27
28

EXHIBIT E

1 Court would deny probation in this matter making
2 findings that the nature, seriousness and circumstances
3 of this case are extraordinary, the manner in which the
4 crime was carried out demonstrated some degree of
5 criminal sophistication. She went to the victims' home
6 with a loaded weapon with the intent to rob him. The
7 defendant's prior record of criminal conduct indicated a
8 pattern of regular and increasingly serious criminal
9 conduct and the defendant's prior performance on
10 probation has been unsuccessful.

11 The Court's intent is to impose the upper term
12 as base term for voluntary manslaughter finding
13 circumstances in aggravation and mitigation -- excuse
14 me, finding circumstances in aggravation outweigh those
15 in mitigation. The Court is also going to impose the
16 upper term for the enhancement. Findings on the
17 enhancement includes the fact she not only possessed the
18 weapon, but showed it and used it. She discharged the
19 firearm. ^A Another enhancement could have been added
20 which would have been a 20 year enhancement, but was
21 not. The Court will therefore impose the upper term of
22 10 years on that enhancement.

23 With the regard to the underlying offense, 192,
24 the Court will find the crime involved great violence.
25 The victim was particularly vulnerable, the crime was
26 premeditated -- at least the entry of the home to commit

EXHIBIT F

MISCELLANEOUS MINUTES

Defendant Knauff, Sunny Lynne Case No CM021308

☒ Matter comes before the court for Probation Report and Sentencing
☐ Court has read and considered the documents filed by ☐ People ☐ Defendant ☐ Other
☐ Counsel heard in argument. ☐ Matter is submitted.
☐ Motion(s) ☐ granted ☐ denied ☐ for the following reasons: _____

☒ Other: Mr. Hopton objects to the Upper tier
summarized to People v. Blakely
Counsel heard in argument

P R O O F O F S E R V I C E

Petitioner/Defendant,)

Cs. No. CM021308

(FRCivP Rule 4)

(FRCivP Rule 5)

(CCP §§1011, 1012)

(CCP §§1013, 1013(a))

Respondent(s)

I, the undersigned, certify that I am over the age of eighteen years, and a (✓) party/() non-party to this action.

On , 2006, I served copy of Federal writ
of Habeas Corpus

(☒) by placing in an envelope addressed to the person(s) herein listed, and by depositing envelope with Correctional Officer Sandak with First Class postage (or CDC-193) attached and for delivery to the United States Postal Service; or (☐) by personal service upon person herein listed at _____ hours:

I declare under the penalty of perjury that the foregoing is true and correct. Executed this 18 day of February 2008 at Chowchilla, California in Madera County.
(city) (state) (county)

(signature) DECLARANT

Print Name Sunny Knauft

Valley State Prison for Women

W# X08475, Unit D1 Dorm 04 Bed 4 ^{VP}

Address P.O. Box 96

City Chowchilla , State CA

Zip 93610-0096

2008-04-21
JSPB
21-04-4UP

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Chico, CA

93610-0096



U.S. District Court
~~450~~ Golden Gate Ave
San Francisco, CA

94102-3483

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FEB 25 2008

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